

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff/Garnishor,)	
)	
v.)	ACTION NO. 2:07mc3355-WHA
)	
CHARLES DUNCAN,)	
)	
Defendant/Judgment Debtor,)	
)	(WO)
v.)	
)	
AMERICAN INTERNATIONAL GROUP)	
(AIG), AIG PENSION DEPARTMENT)	
)	
Garnishee.)	

ORDER

This case is before the court on the Joint Statement of the Parties filed by the United States on October 29, 2008 (Doc. # 18). The Joint Statement was filed in response to the September 24, 2008, Order of this court taking all pending matters under submission and directing the parties to file a joint statement as to the resolution of this case (Doc. # 15).

On September 7, 2006, Charles Duncan was convicted, by plea agreement, of one count of mail fraud, in violation of 18 U.S.C. § 1341. This court sentenced Duncan to 30 months custody followed by 3 years supervised release, a special assessment of \$100, and restitution in the amount of \$517,599.12. The judgment included special instructions regarding the payment of restitution, specifying that any balance remaining at the start of his term of supervised release

be paid at the rate of not less than \$100 per month, subject to modification during the term of supervised release.

On February 8, 2007, the United States filed an application for writ of garnishment (Doc. # 1), which was issued by the Clerk of Court on February 21, 2007 (Doc. # 2). On March 26, 2007, Duncan filed, pro se, an Objection to the Writ of Garnishment (Doc. # 4) as well as an Addendum filed on August 23, 2007 (Doc. # 7) (collectively, "Objections"). The garnishee, American International Group ("AIG"), filed an answer to the writ of garnishment on July 7, 2008. Duncan filed a Motion to Quash the Writ of Garnishment on July 25, 2008 (Doc. # 9), and the United States filed an objection to the Objections and Answers of AIG and Duncan (Doc. # 10.) On July 28, 2008, this court issued an order for the United States to show cause as to why the Motion to Quash filed by Duncan should not be granted. (Doc. # 11), and on July 30, 2008, the United States filed a response. On August 20, 2008, this court ordered the appointment of counsel to represent Duncan and set all outstanding matters for oral argument. Following oral argument on September 24, 2008, the court entered its Order directing the parties to file a joint statement on the resolution of the case.

On October 29, 2008, the parties advised the court in the Joint Statement that AIG, AIG Retirement Plan, and Duncan have entered into a confidential settlement agreement and release. As a result of this settlement agreement, Duncan withdraws his Objections to the payments already made by AIG and AIG Retirement Plan to the court for the benefit of the victim.

The United States and Duncan have further agreed that in accordance with 18 U.S.C. § 3613 and 15 U.S.C. § 1673, 25% of the monthly benefits payable to Duncan by the Garnishee are subject to the Writ of Garnishment entered on February 7, 2008. AIG and AIG Retirement

Plan have no position on the appropriate amount to be garnished, but have asked the court to determine the appropriate amount to be garnished under the applicable law. The court finds the appropriate amount to be 25% of the monthly benefits payable to Duncan as agreed by the United States and Duncan.

For the foregoing reasons, it is hereby ORDERED as follows:

1. The Clerk of the Court issue a draft payable to Mr. Charles Duncan in the amount of one thousand, seven hundred, sixty-six dollars and eight cents (\$1766.08) and forward it to Mr. Louis Calligas, Mr. Duncan's attorney of record. This amount reflects the funds presently retained by the Clerk of Court which were paid by AIG pursuant to the Writ of Garnishment issued February 7, 2008.

2. Going forward, 25% of the monthly benefits payable to Duncan by the Garnishee will be subject to the Writ of Garnishment entered on February 7, 2008.

3. The Motion to Quash (Doc. #9) is DENIED as moot.

DONE this 13th day of November, 2008.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE